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Agenda item 82
**Report of the International Law Commission on the work of its seventieth session**

**Draft resolution**

# Report of the International Law Commission on the work of its seventieth session

*The General Assembly*,

*Having considered* the report of the International Law Commission on the work of its seventieth session,[1]

*Emphasizing* the importance of furthering the progressive development and codification of international law as a means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[2]

*Recognizing* the desirability of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission for closer examination, and of enabling the Sixth Committee and the Commission to enhance further their contribution to the progressive development and codification of international law,

*Recalling* the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

*Recalling also* the role of Member States in submitting proposals for new topics for the consideration of the International Law Commission, and noting in this regard the recommendation of the Commission that such proposals be accompanied by a statement of reasons,

[1] *Official Records of the General Assembly, Seventy-third Session, Supplement No. 10* (A/73/10).
[2] Resolution 2625 (XXV), annex.



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*Reaffirming* the importance for the successful work of the International Law Commission of the information provided by Member States concerning their views and practice,

*Recognizing* the importance of the work of the special rapporteurs of the International Law Commission,

*Welcoming* the holding of the International Law Seminar, and noting with appreciation the voluntary contributions made to the United Nations trust fund for the International Law Seminar,

*Acknowledging* the importance of facilitating the timely publication of the *Yearbook of the International Law Commission* and of eliminating the backlog,

*Stressing* the usefulness of focusing and structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention to each of the main topics dealt with in the report and for discussions on specific topics,

*Wishing* to enhance further, in the context of the revitalization of the debate on the report of the International Law Commission, the interaction between the Sixth Committee as a body of governmental representatives and the Commission as a body of independent legal experts, with a view to improving the dialogue between the two bodies,

*Welcoming* initiatives to hold interactive debates, panel discussions and question time in the Sixth Committee, as envisaged in General Assembly resolution 58/316 of 1 July 2004 on further measures for the revitalization of the work of the Assembly,

*Welcoming also* the seventieth anniversary commemorative meetings held in New York and Geneva, which took place under the overarching theme of "70 years of the International Law Commission – Drawing a balance for the future", as well as the discussions which took place, inter alia, on the working methods of the Commission,

1. *Takes note* of the report of the International Law Commission on the work of its seventieth session;[1]

2. *Expresses its appreciation* to the International Law Commission for the work accomplished at its seventieth session, and notes in particular:

(a) The completion of the second reading of the draft conclusions on subsequent agreements and subsequent practice in relation to the interpretation of treaties;[3]

(b) The completion of the second reading of the draft conclusions on identification of customary international law;[4]

(c) The completion of the first reading of the draft guidelines on the protection of the atmosphere;[5]

(d) The completion of the first reading of the draft Guide to Provisional Application of Treaties;[6]

3. *Recommends* that the International Law Commission continue its work on the topics in its current programme of work, taking into account the comments and

[3] See *Official Records of the General Assembly, Seventy-third Session, Supplement No. 10* (A/73/10), chap. IV, sect. E.

[4] Ibid., chap. V, sect. E.

[5] Ibid., chap. VI, sect. C.

[6] Ibid., chap. VII, sect. C.

observations of Governments, whether submitted in writing or expressed orally in debates in the Sixth Committee;

4. *Draws the attention* of Governments to the importance for the International Law Commission of having their views by 31 December 2018 on the various aspects of the topics on the agenda of the Commission, in particular on all the specific issues identified in chapter III of its report, regarding:

(a) Peremptory norms of general international law (*jus cogens*);

(b) Immunity of State officials from foreign criminal jurisdiction;

(c) Protection of the environment in relation to armed conflicts;

(d) Succession of States in respect of State responsibility;

5. *Also draws the attention* of Governments to the importance for the International Law Commission of having their comments and observations on the draft articles on crimes against humanity, adopted on first reading by the Commission at its sixty-ninth session;[7]

6. *Further draws the attention* of Governments to the importance for the International Law Commission of having their comments and observations by 15 December 2019 on the draft guidelines on the protection of the atmosphere and on the draft Guide to Provisional Application of Treaties, adopted on first reading by the Commission at its seventieth session;[8]

7. *Takes note* of the decision of the International Law Commission to include the topic "General principles of law" in its programme of work,[9] and encourages the Commission to continue the examination of the topics that are in its long-term programme of work;[10]

8. *Encourages* the International Law Commission to take into account the capacity and views of Member States when including topics in its current programme of work;

9. *Takes note* of paragraphs 368 to 370 of the report of the International Law Commission and notes, in particular, the inclusion of the topics "Universal criminal jurisdiction", and "Sea-level rise in relation to international law" in the long-term programme of work of the Commission,[11] and in this regard calls upon the Commission to take into consideration the comments, concerns and observations expressed by Governments during the debate in the Sixth Committee;

10. *Also takes note* of the holding of the first part of the seventieth session of the International Law Commission at United Nations Headquarters, in New York, from 30 April to 1 June 2018, which coincided with the commemoration of the seventieth anniversary of the Commission, and of the second part of the session at the United Nations Office at Geneva, from 2 July to 10 August 2018;

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[7] Ibid., *Seventy-second Session, Supplement No. 10* (A/72/10), para. 43.

[8] Ibid., *Seventy-third Session, Supplement No. 10* (A/73/10), paras. 76 and 88.

[9] Ibid., para. 363.

[10] The following topics are currently in the long-term programme of work of the International Law Commission: "Ownership and protection of wrecks beyond the limits of national maritime jurisdiction", "Jurisdictional immunity of international organizations", "Protection of personal data in transborder flow of information", "Extraterritorial jurisdiction", "The fair and equitable treatment standard in international investment law", "Settlement of international disputes to which international organizations are parties", "Evidence before international courts and tribunals", "Universal criminal jurisdiction" and "Sea-level rise in relation to international law".

[11] *Official Records of the General Assembly, Seventy-third Session, Supplement No. 10* (A/73/10), para. 369

11. *Further takes note* of paragraphs 331 to 362 of the report of the International Law Commission and commends the convening of the seventieth anniversary commemorative meetings in New York on 21 May 2018 and in Geneva on 5 and 6 July 2018, and also expresses its appreciation to the Member States, the academic institution and others, which have made financial contributions and contributions in kind to facilitate the commemoration of the seventieth anniversary of the Commission;

12. *Takes note* of paragraph 382 of the report of the International Law Commission, and requests the Secretary-General to continue his efforts to identify concrete options for support for the work of special rapporteurs, additional to those provided under General Assembly resolution 56/272 of 27 March 2002;

13. *Welcomes* the efforts of the International Law Commission to improve its methods of work,[12] and encourages the Commission to continue this practice;

14. *Invites* the International Law Commission to continue to take measures to enhance its efficiency and productivity and to consider making proposals to Member States to that end;

15. *Recalls* the importance of an in-depth analysis of State practice and the consideration of the diversity of legal systems of Member States to the work of the International Law Commission;

16. *Encourages* the International Law Commission to continue to take cost-saving measures at its future sessions, without prejudice to the efficiency and effectiveness of its work;

17. *Recalls* that the seat of the International Law Commission is at the United Nations Office at Geneva;

18. *Takes note* of paragraph 395 of the report of the International Law Commission, and decides that the next session of the Commission shall be held at the United Nations Office at Geneva from 29 April to 7 June and from 8 July to 9 August 2019;

19. *Stresses* the desirability of further enhancing the dialogue between the International Law Commission, in particular the special rapporteurs, and the Sixth Committee, and in this context encourages, inter alia, the continued practice of informal consultations in the form of discussions between the members of the Sixth Committee and the members of the Commission throughout the year;

20. *Encourages* delegations, during the debate on the report of the International Law Commission, to continue to adhere as far as possible to the structured work programme agreed to by the Sixth Committee and to consider presenting concise and focused statements;

21. *Encourages* Member States to consider being represented at the level of legal adviser during the first week in which the report of the International Law Commission is discussed in the Sixth Committee (International Law Week) to enable high-level discussions on issues of international law;

22. *Underlines* in this regard the necessity to allow sufficient time for the consideration of the report of the International Law Commission in the Sixth Committee;

23. *Requests* the International Law Commission to continue to pay special attention to indicating in its annual report, for each topic, any specific issues on which expressions of views by Governments, either in the Sixth Committee or in written

[12] Ibid., *Sixty-sixth Session, Supplement No. 10* (A/66/10), paras. 370–388.

form, would be of particular interest in providing effective guidance for the Commission in its further work;

24. *Takes note* of paragraphs 396 to 399 of the report of the International Law Commission with regard to cooperation and interaction with other bodies, and encourages the Commission to continue the implementation of articles 16 (e), 25 and 26 of its statute in order to further strengthen cooperation between the Commission and other bodies concerned with international law, having in mind the usefulness of such cooperation;

25. *Notes* that consulting with national organizations and individual experts concerned with international law may assist Governments in considering whether to make comments and observations on drafts submitted by the International Law Commission and in formulating their comments and observations;

26. *Reaffirms* its previous decisions concerning the indispensable role of the Codification Division of the Office of Legal Affairs of the Secretariat in providing assistance to the International Law Commission, including in the preparation of memorandums and studies on topics on the agenda of the Commission, and takes note of the requests of the Commission to the Secretariat to reissue the memorandum on ways and means for making the evidence of customary international law more readily available [13] to reflect the text of the draft conclusions and commentaries on identification of customary international law adopted on second reading, and to prepare a memorandum providing information on treaties which may be of relevance to its future work on the topic "Succession of States in respect of State responsibility", contained in paragraphs 364 and 365 of the report of the Commission;

27. *Also reaffirms* its previous decisions concerning the documentation and summary records of the International Law Commission;[14]

28. *Takes note* of paragraph 386 of the report of the International Law Commission, recalls the paramount importance of multilingualism as set forth in General Assembly resolutions 69/324 of 11 September 2015 and 71/328 of 11 September 2017 on multilingualism, underlines the importance of having the documents of the Commission published in due time in the six official languages of the United Nations, and to this end requests special rapporteurs to submit their reports within the time limits specified by the Secretariat;

29. *Stresses* the need to expedite the preparation of the summary records of the International Law Commission, and welcomes the continuation of the measures taken to streamline the processing of summary records during the sixty-fifth session of the Commission,[15] which have led to a more rational use of resources, and expresses its satisfaction that the summary records of the Commission, constituting *travaux préparatoires* in the progressive development and codification of international law, will not be subject to arbitrary length restrictions;

30. *Welcomes* the institutionalization of the practice of the Secretariat to include on the website of the International Law Commission the provisional summary records in English and French relating to the work of the Commission;

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[13] A/CN.4/710.

[14] See resolutions 32/151, para. 10, and 37/111, para. 5, and all subsequent resolutions on the annual reports of the International Law Commission to the General Assembly. See also *Yearbook of the International Law Commission 1982*, vol. II (Part Two), paras. 267–269 and 271, as well as all subsequent annual reports of the International Law Commission.

[15] *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 10* (A/68/10), para. 183.

31. *Also welcomes* the efforts of the Secretariat in seeking to ensure the timely and efficient processing of the documents of the International Law Commission and the institutionalization of the experimental measures taken during the sixty-eighth session of the Commission to streamline the editing of those documents;

32. *Takes note* of paragraph 385 of the report of the International Law Commission, underlines the importance of the publications of the Codification Division to the work of the Commission, welcomes in particular the issuance of the ninth edition of *The Work of the International Law Commission* in French, and reiterates its request that the Secretary-General continue to publish *The Work of the International Law Commission* in all six official languages at the beginning of each quinquennium, the *Reports of International Arbitral Awards* in English or French and the *Summaries of the Judgments, Advisory Opinions and Orders of the International Court of Justice* in all six official languages every five years;

33. *Also takes note* of paragraph 390 of the report of the International Law Commission, stresses the unique value of the *Yearbook of the International Law Commission*, and requests the Secretary-General to ensure its timely publication in all official languages;

34. *Expresses its appreciation* to Governments that have made voluntary contributions to the trust fund on the backlog relating to the *Yearbook of the International Law Commission*, and encourages further contributions to the trust fund;

35. *Takes note* of paragraph 391 of the report of the International Law Commission, expresses its satisfaction with the remarkable progress achieved in the past few years in reducing the backlog of the *Yearbook of the International Law Commission* in all six languages, welcomes the efforts made by the Division of Conference Management of the United Nations Office at Geneva, especially its Editing Section, in effectively implementing relevant resolutions of the General Assembly calling for the reduction of the backlog, encourages that Division to provide continuous necessary support to the Editing Section in advancing the *Yearbook of the International Law Commission*, and requests that updates on progress made in this respect be provided to the Commission on a regular basis;

36. *Welcomes* the continuous efforts of the Codification Division to maintain and improve the website relating to the work of the International Law Commission;

37. *Expresses the hope* that the International Law Seminar will continue to be held in connection with the sessions of the International Law Commission and that an increasing number of participants representing the principal legal systems of the world, including in particular those from developing countries, will be given the opportunity to attend the Seminar, as well as delegates to the Sixth Committee, and appeals to States to continue to make urgently needed voluntary contributions to the United Nations trust fund for the International Law Seminar;

38. *Requests* the Secretary-General to provide the International Law Seminar with adequate services, including interpretation, as required, and encourages him to continue to consider ways to improve the structure and content of the Seminar;

39. *Underlines* the importance of the records and topical summary of the debate in the Sixth Committee for the deliberations of the International Law Commission, and in this regard requests the Secretary-General to forward to the Commission, for its attention, the records of the debate on the report of the Commission at the seventy-third session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate, following established practice;

40. *Requests* the Secretariat to circulate to States, as soon as possible after the conclusion of the session of the International Law Commission, chapter II of its report containing a summary of the work of that session, chapter III containing the specific issues on which the views of Governments would be of particular interest to the Commission and the draft articles adopted on either first or second reading by the Commission;

41. *Also requests* the Secretariat to make the complete report of the International Law Commission available as soon as possible after the conclusion of the session of the Commission for the consideration of Member States with due anticipation and no later than the prescribed time limit for reports in the General Assembly;

42. *Encourages* the International Law Commission to continue to consider ways in which specific issues on which the views of Governments would be of particular interest to the Commission could be framed so as to help Governments to have a better appreciation of the issues on which responses are required;

43. *Recommends* that the debate on the report of the International Law Commission at the seventy-fourth session of the General Assembly commence on 28 October 2019.